IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 316 OF 2001

Official Liquidator,
High Court of Bombay,
Panaji. ..... Applicant

V e r s u s

1. Bentu Anton Fernandes,
   H.No. 825, Ubhadanda,
   Sukhtanwadi,
   Vengurla.

2. Namdeo Narayan Mochemadekar,
   Warchemad,
   Ubhadanda, Vengurla.
   (Expired)(Since deceased, through
   Legal Representatives)

   (a) Amit Namdeo Mochemadkar,
   Warchemad, Ubhadanda,
   Tal Vengurla.

3. Dattaram S. Arawandekar,
   A/P. Dabholi,
   Nagdewadi,
   Tal. Vengurla. ..... Respondents

Ms. Amira Razaq, Advocate for the Applicant/Official Liquidator.

Mr. Mauro Menezes, Advocate for the Respondent no. 2(a).

CORAM: N. A. BRITTO, J.

DATE: 29th September, 2006.

ORAL JUDGMENT

Heard Ms. Amira Razaq and Shri Mauro Menezes, the learned Counsel on behalf of the applicant and respondent no.2(a) respectively.

2. The respondent no.1 had taken a loan in the sum of Rs.30,000/- from the Company in liquidation on 13.10.1995. The receipt obtained from respondent no.1 has been produced on behalf of the Applicant/Official Liquidator through A.w.2/Shri Harmalkar, who was one of the Ex-Directors of the Company in liquidation.

3. I have perused the affidavit filed on behalf of the applicant/Official Liquidator and documents produced by him. The name of deceased respondent no.2 and respondent no.3 appear on the loan ledger maintained by the Company in liquidation and now in the custody of the applicant/Official Liquidator. It is submitted on behalf of respondent no.2 (a) by Shri Mauro that the applicant/Official Liquidator has not produced any document to show that respondent nos. 2 and 3 had stood as sureties or guarantors for the repayment of the said loan taken by respondent no.1, except the said loan ledger which cannot be expected to saddle the liabilities on respondent nos. 2 and 3. I am entirely in agreement with the

submissions made by Shri Mauro, on behalf of the respondent no.2(a). In the absence of any documents having been executed by respondent nos. 2 and 3 towards the loan disbursed to respondent nos.1, Respondent nos. 2 and 3, cannot be saddled with any liability. The claim against respondent nos. 2(a) and 3, is therefore, hereby dismissed.

4. The evidence produced on behalf of the applicant/Official Liquidator shows that the respondent no.1 was liable to pay as per the loan ledger a sum of Rs.58,716.17 as on 01.10.1998. Respondent no.1 has chosen not to contest to the claim. Hence the claim of the applicant/Official Liquidator for the recovery of Rs.49,816/- is hereby decreed w.e.f. 01.01.1999 with pending interest at the rate of 20% and future interest at the rate of 8%, with costs. It has been submitted on behalf of the applicant/Official Liquidator that the sum of Rs.9,000/- was already adjusted before arriving at the said figure of Rs.49,816/-, as per the orders of this Court.

N. A. BRITTO, J.

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